

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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U S DISTRICT COURT E.D.N.Y.

★ FEB 24 2011 ★

MARK SOLIMAN,

LONG ISLAND OFFICE

Plaintiffs,

-against-

ORDER

10 CV 408 (SJF) (AKT)

DAIMLER AG, MERCEDES-AMG GMBH,
MERCEDES-BENZ USA, LLC, PROGRESSIVE
NORTHEASTERN INSURANCE COMPANY,

Defendant.

X

FEUERSTEIN, J.

On June 8, 2009, *pro se* plaintiff initiated this action against Daimler AG, Mercedes-AMG GmbH, Mercedes-Benz USA, LLC, and Progressive Northeastern Insurance Company (“Progressive”) to recover damages for injuries sustained in an automobile accident. Plaintiff filed a second amended complaint (“the complaint”) on November 30, 2009. On July 14, 2010, 2010, Progressive filed a motion to dismiss the complaint pursuant to Rule 12(c) of the Federal Rules of Civil Procedure. Pursuant to a referral, Magistrate Judge A. Kathleen Tomlinson issued a Report and Recommendation on February 9, 2011 (the “Report”) which recommended that Progressive’s motion be granted. No objections have been filed to the Report. For the reasons stated herein, the Report is accepted in its entirety.

I. Discussion

Rule 72 of the Federal Rules of Civil Procedure permits magistrate judges to conduct proceedings on dispositive pretrial matters without the consent of the parties. Fed. R. Civ. P. 72(b). Any portion of a report and recommendation on dispositive matters, to which a timely objection has been made, is reviewed *de novo*. 28 U.S.C. § 636(b)(1); Fed. R. Civ. P. 72(b). The court, however, is not required to review the factual findings or legal conclusions of the magistrate judge as to which no proper objections are interposed. See Thomas v. Arn, 474 U.S. 140, 150, 106 S.Ct. 466, 88 L.Ed.2d 435 (1985). To accept the report and recommendation of a magistrate judge to which no timely objection has been made, the district judge need only be satisfied that there is no clear error on the face of the record. See Fed. R. Civ. P. 72(b); Baptichon v. Nevada State Bank, 304 F. Supp. 2d 451, 453 (E.D.N.Y. 2004), affd, 125 F. App'x. 374 (2d Cir. 2005); Nelson v. Smith, 618 F. Supp. 1186, 1189 (S.D.N.Y. 1985). Whether or not proper objections have been filed, the district judge may, after review, accept, reject, or modify any of the magistrate judge's findings or recommendations. 28 U.S.C. § 636(b)(1); Fed. R. Civ. P. 72(b).

No objections have been filed to Magistrate Judge Tomlinson's Report. Upon review, the Court is satisfied that the Report is not facially erroneous. Accordingly, the Court accepts and adopts the Report as an Order of the Court.

II. Conclusion

For the foregoing reasons, Progressive's motion to dismiss is granted and the complaint is dismissed with prejudice as against Progressive.

SO ORDERED.

SANDRA J. FEUERSTEIN
United States District Judge

Dated: February 24, 2010
Central Islip, New York